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In re Patent no.: 6,909,101	:
Issue Date: June 21, 2005	:
Application No. 10/756,050	: DECISION ON PETITION
Filed: January 12, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NAII122162	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 24, 2008, seeking to correct a claim for priority by way of a Certificate of Correction to prior-filed International Patent Application PCT/JP02/06837, filed July 05, 2002.

The petition is GRANTED.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed international application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii).

The instant application was filed January 12, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed international application after issuance of the application into a patent. As provided in MPEP § 1481.03, where 35 U.S.C. 120 and 365(c) priority based on an international application is to be asserted or corrected in a patent via a Certificate of Correction, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11);

(C) the patentee must submit together with the request for the certificate, copies of documentation showing designation of states and any other information needed to make it clear from the record that the 35 U.S.C. 120 priority is appropriate (see MPEP 201.13(b) as to the requirements for 35 U.S.C. 120 priority based on an international application; and

(D) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

As the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed international application satisfies conditions (A) - (D), the petition is granted. It is noted that the Certificate of Correction mailed 22 July 2008 is in accordance with this decision.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed international application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Anthony Smith at (571) 272-3298.



Boris Milef  
PCT Legal Examiner  
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt